

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SEAN CASE MCGINLEY,

Defendant

Case No.: 3:21-CR-00457-HZ

ORDER FOR COMMITMENT AND
TREATMENT

This matter came before the Court on March 7, 2023, for a hearing to determine whether defendant, Sean McGinley, is mentally competency to stand trial pursuant to 18 U.S.C. § 4241(c). Mr. McGinley appeared personally and with his attorney, Noel Grefenson. Assistant United States Attorney, Gary Sussman, appeared on behalf of the government.

Upon stipulation of the parties' counsel, the Court received and considered the psychological evaluation report and opinion concerning Mr. McGinley's mental competency prepared on February 9, 2023, by Dr. David M. Szyhowski, Chief Psychologist for the Metropolitan Correctional Center in Chicago, Illinois. Neither party offered additional evidence.

Pursuant to 18 U.S.C. § 4241(d), the Court finds by a preponderance of the evidence that the diagnosis and opinions stated in Dr. Szyhowski report demonstrate that Mr. McGinley presently suffers from a mental disease or defect which renders him mentally incompetent to the extent that he is unable to assist properly in his defense.

NOW, THEREFORE, IT IS HEREBY ORDERED:

Pursuant to 18 U.S.C. §§ 4241(c) and (d), and § 4247(d), Mr. McGinley is committed to the custody of the Attorney General, who shall hospitalize him for treatment in a suitable facility for a reasonable period of time, not to exceed four months, which time shall begin on the date he arrives at that treatment facility. Mr. McGinley shall be treated to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the proceedings to go forward and may continue for an additional reasonable period of time until his mental condition is so improved that trial may proceed or the pending charges against him are disposed of according to law, whichever is earlier. The Court recommends that the Attorney General designate Mr. McGinley to be hospitalized in the facility having the earliest available bed and, at the request of Mr. McGinley, further recommends that he be placed at the U.S. Medical Center for Federal Prisoners at Springfield, Missouri.

IT IS FURTHER ORDERED, pursuant to 18 U.S.C. § 3161(h)(1)(4) that the delay required to provide Mr. McGinley with treatment to restore his competency results from the fact that Mr. McGinley is presently mentally incompetent so shall be excluded when computing the time within which the trial of his offenses must commence under the Speedy Trial Act.

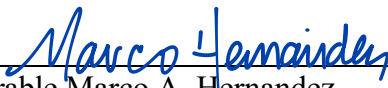
IT IS FURTHER ORDERED, pursuant to 18 U.S.C. § 4241(e), that if the director of the facility in which Mr. McGinley is hospitalized determines that he has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, the director shall promptly file a certificate to that effect with the Clerk of the Court, who shall send a copy of the certificate to counsel for the parties. Thereafter the Court shall set a hearing to determine Mr. McGinley's competency in accordance with 18 U.S.C. §§ 4247(d) and 4241(e).

IT IS FURTHER ORDERED, pursuant to 18 U.S.C. §§ 4247(e)(1) and (f), that the director of the facility in which Mr. McGinley is committed shall, by the end of the initial four-month treatment period and semi-annually thereafter, prepare a report advising the Court of his mental condition and containing recommendations concerning the need for continued commitment, and shall produce a video record of interviews of Mr. McGinley upon which the periodic report is based. The reports and video record(s) shall be submitted to the Court. The Court will provide copies to counsel for the parties.

IT IS FURTHER ORDERED, pursuant to 18 U.S.C. § 4247(e)(2), that the director of the facility in which Mr. McGinley is committed shall inform him of any rehabilitative programs that are available for persons committed in that facility.

IT IS FURTHER ORDERED, pursuant to 18 U.S.C. § 4241, that if, at the end of the period of time specified herein, it is determined that Mr. McGinley's mental condition has not so improved as to permit proceedings to go forward, a further hearing shall be set to address further proceedings pursuant to 18 U.S.C. § 4246.

DATED this 24 day of March 2023.



Honorable Marco A. Hernandez
United States District Court Judge